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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,928	03/31/2004	Admir James Mesalic	MES1.002	5800
39863	7590	12/06/2005	EXAMINER	
SONNABENDLAW 600 PROSPECT AVE BROOKLYN, NY 11215			EDELL, JOSEPH F	
			ART UNIT	PAPER NUMBER
			3636	

DATE MAILED: 12/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/813,928

Applicant(s)

MESALIC ET AL.

Examiner

Joseph F. Edell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 31-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 31-43 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 March 2004 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>03/31/04</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election of Species I, Figures 1-3, in the reply filed on 23 September 2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the skid resistant portions of the bottom side and the intermediate layer between the top and bottom surfaces must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for

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consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

3. Claims 5 and 32 are objected to because of the following informalities:
  - a. claim 5, line 1, "coupling elements are" should read --coupling element is--;
  - b. claim 32, lines 2-3, "a side" should read --the side--.Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-12 and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,999,221 to Hannigan.

Hannigan discloses a protective covering that includes all the limitations recited in claims 1-12 and 31. Hannigan shows a protective covering having a main protective portion/main placemat area (See Fig. 2) with a bottom side including skid resistant portions 46,48, and a front protective portion/at least one side flap (see Fig. 1) attached to the main protective portion and including a coupling element 22,24 that is ribbon ties wherein the front protective portion is capable of attaching to a front arm portion of a child's chair and to extend from a table top to the child's chair, the main protective portion including a pocket 44 (Fig. 1) formed therein, and two side protective portions attached to and extending from the front protective portion that are capable of attaching to orthogonal side arm portions of the child's chair.

6. Claims 1, 3-9, 12, 31-36, 39, and 40 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,786,256 B2 to Sugwara.

Sugwara discloses a protective covering that includes all the limitations recited in claims 1, 3-9, 12, 31-36, 39, and 40. Sugwara shows a protective covering having a main protective portion/main placemat area 2 (see Fig. 1) with top and bottom surfaces of vinyl (column 3, lines 1-5), a front protective portion/at least one side flap 5,6 attached to the main protective portion and including a coupling element 8 that is hook and loop fasteners, two side flaps extending 5 from a side of the main placemat area, a front flap extending between the side flaps, and a pocket (Fig. 10) on the top surface of the main placemat area wherein the front protective portion is capable of attaching to a

front arm portion of a child's chair and to extend from a table top to the child's chair, the two side protective portions are capable of attaching to orthogonal side arm portions of the child's chair, the side flaps are longer than the front flap, the side flaps and front flap form a U-shaped opening facing away from the main placement area.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 37 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sugwara in view of U.S. Patent No. 4,627,363 to Jones.

Sugwara disclose a protective covering that is basically the same as that recited in claim 37 and 38 except that the front flap lacks coupling elements, as recited in the claims. Jones shows a protective covering similar to that of Sugwara wherein the protective covering 1 (see Fig. 1) has a free ends with coupling elements 2,6 of hook and loop fasteners. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the protective covering of Sugwara such that the front flap has coupling elements of hook and loop fasteners, such as the protective covering disclosed in Jones. One would have been motivated to make such a modification in view of the suggestion in Jones that the coupling elements

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allow for attachment of free ends of the covering underneath the table to further secure the covering.

9. Claim 41 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sugwara in view of U.S. Patent No. 4,137,356 to Shoemaker et al.

Sugwara disclose a protective covering that is basically the same as that recited in claim 41 except that the bottom surface lacks a skid resistant material, as recited in the claim. Shoemaker et al. show a protective covering similar to that of Sugwara wherein the protective covering has a top surface 11a (see Fig. 4) and a bottom surface 11b that is constructed of a skid resistant material. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the protective covering of Sugwara such that the bottom surface is constructed of a skid resistant material, such as the protective covering disclosed in Shoemaker et al. One would have been motivated to make such a modification in view of the suggestion in Shoemaker et al. that the skid resistant material of the bottom surface provides an expensive, high-friction placemat.

10. Claims 42 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sugwara in view of U.S. Patent No. 3,920,870 to Ackerman et al.

Sugwara disclose a protective covering that is basically the same as that recited in claims 42 and 43 except that the top and bottom surfaces lack an intermediate layer and a translucent top surface, as recited in the claim. Ackerman et al. show a protective covering similar to that of Sugwara wherein the protective covering has a top surface 10 (see Fig. 2) that is translucent, a bottom surface 12, and an intermediate layer 14 of

printed fabric. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the protective covering of Sugwara such that the top surface is translucent and the placemat area includes an intermediate layer of printed fabric, such as the protective covering disclosed in Ackerman et al. One would have been motivated to make such a modification in view of the suggestion in Ackerman et al. that the intermediate layer and translucent top surface allows for a decorative placemat with interchangeable intermediate layer.

### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to protective coverings:

U.S. Pat. No. 3,332,547 to Buss et al.	U.S. Pat. No. 4,663,779 to Bible
U.S. Pat. No. 4,885,200 to Pedelwitz et al.	U.S. Pat. No. 5,243,724 to Barnes
U.S. Pat. No. 5,459,877 to Roberti	U.S. Pat. No. 6,746,735 B2 to Snedeker

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (571) 272-6858. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for



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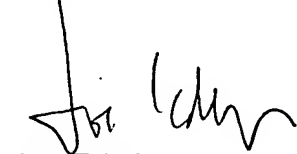
published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Joe Edell", is positioned above the printed name.

Joe Edell  
December 2, 2005